

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application and for the indication that claims 21, 25, 34, 37, 37, and 41 contain allowable subject matter.

Claims 1-7, 9-21, 23-29, 31-39, 41, and 42 are pending. While not acquiescing to the rejections, but merely to advance prosecution of the present application, independent claims 1, 11, and 39 are amended to incorporate the subject matter of now-cancelled claims 8, 22, and 40, respectively. In addition, the independent method claims are amended so the devices that perform many of the various operations are recited in the preamble. The method claims are amended to recite the steps in active terms where appropriate, and the apparatus claims have been amended to assure coverage when the goods are sold, prior to being put into use. Claims 23 and 27 are rewritten in independent form. Claims 43-59 are also cancelled, rendering moot the rejection of claim 49 as being indefinite under 35 U.S.C. §112, second paragraph.

Revised formal drawings are attached to address the issues noted in the Notice of Draftsperson's Patent Drawing Review. Confirmation of the Examiner's acceptance of these drawings is respectfully requested. These drawings are the same as those filed in copending Application Serial No. 09/843,646.

Claims 1-7, 9, 31-33, 35, and 36 are rejected under 35 U.S.C. §102(e) as being anticipated by Slettengren et al. (U.S. 2002/0228674). Claims 8, 10, 23, 24, and 26-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Slettengren et al. in view of Rautila et al. (U.S. 6,549,625).

It is respectfully submitted that Slettengren et al., taken alone or in combination with Rautila et al., fails to render obvious the features of Applicants' amended independent claims 1, 11, 23, 27, and 39 for at least the reasons discussed below.

The submitted claims relate to methods of advertising and associated apparatus. An advertisement is sent by a short range wireless transmission (a typical context would be a short range transmitter in a shop sending advertisements to customers in the shop with Bluetooth-enabled cellular telephones), and the consumer device filters the advertisement.

Slettengren et al. relates to the problem of quiet areas, specifically, how certain areas (e.g., libraries, cinemas, restaurants) can be kept free from noise and other disruption associated with mobile telephones. Slettengren et al. proposes designating areas called "Politeness Zones". When a cellular telephone enters a Politeness Zone, it receives a signal (for example, over Bluetooth; see paragraph 0030) requesting that the cellular telephone be set to a politeness mode (in which, for

example, calls drop directly into voicemail without the cellular telephone ringing (see paragraph 0039). Slettengren et al. has different Politeness Zone levels (paragraphs 0031-0034). A cellular telephone is set to respond differently at different Politeness Zone levels using a Politeness Zone profile (0039).

Slettengren et al. does not disclose any form of communication in response to a Politeness Zone request beyond acceptance and rejection. In addition, Slettengren et al. does not teach or suggest that Politeness Zone requests relate to anything beyond a request to modify cellular telephone operation. In other words, Slettengren et al. does not disclose anything that could be considered advertising, nor does it relate to the provision of information to encourage further interaction.

Rautila discloses fixed transmitters that broadcast advertisements over short range wireless telecommunications (using Bluetooth or the like). The provided advertisements are relevant to the location of the transmission (column 6, line 58, through column 7, line 51). The advertisements are received by local consumers (having, for example, Bluetooth-enabled cellular telephones), who see advertisement information displayed. From the displayed advertisement information, the local consumers decide whether to

follow up on the advertisement, typically by following a network address link in the advertisement itself (column 9, lines 12 -42).

The foregoing indicates Slettengren et al. and Rautila et al. address very different problems and circumstances. Slettengren et al. is not directed to advertisement in any conventional sense of the word. Rather, Slettengren et al. achieves a balance between information and coercion in establishing quiet areas free from disruptive cellular telephone use. One of ordinary skill in the art would not be motivated to consider art, as disclosed by Slettengren et al., relating to advertising. Slettengren et al. is the antithesis of a further use of a mobile cellular telephone. Furthermore, all the information needed by the user for the Slettengren et al. purpose is provided by the request message.

Similarly, one of ordinary skill in the art would find no motivation in Rautila et al. to investigate art relating to the establishment of quiet areas (as this is to do with control of cellular telephones, rather than providing content to users of mobile phones). It is, therefore, submitted that the obviousness attacks made in the Office Action are not well founded.

Dependent claim 31 relates to a mobile telephone with an advertisement filter. The filter compares characteristics of

the advertisement with an allowable advertisement characteristics profile of the filter to determine as acceptable matching. Advertisements are only accepted in response to acceptable matching occurring. This simply does not read on the Slettengren et al. arrangement. It is apparent that the Politeness Zone request of Slettengren et al. is not the same as the plain meaning of "advertisement." It is also apparent that no matching process of the type defined by claim 31 exists in Slettengren et al. Slettengren et al. includes Politeness Zone level in the request. Different rules for different Politeness Zone levels are used with respect to the accepting/rejecting requests and mobile telephone configuration. Slettengren et al. has no matching process as claim 31 defines. It is difficult to imagine why one of ordinary skill in the art would have modified Slettengren et al., directed as it is to the different purpose of providing quiet zone alerts, to include the subject matter of claim 31.

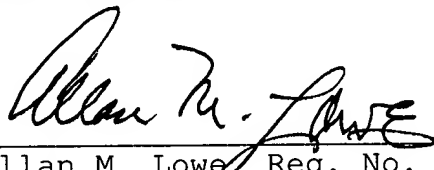
In view of the foregoing, favorable reconsideration and allowance are respectfully requested and deemed in order.

The Commissioner is authorized to charge any omitted fees, including extension of time and extra claims fees, to Deposit Account 07-1337.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP

By:


Allan M. Lowe Reg. No. 19,641

1700 Diagonal Road, Suite 300
Alexandria, VA 22314
703-684-1111 telephone
703-518-5499 telecopier
AML:rk